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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,794	02/27/2004	Christian H. Green	GREC121366	7857

26389 7590 09/26/2005

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EXAMINER
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LAYNO, BENJAMIN

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 09/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/788,794	<b>Applicant(s)</b> GREEN, CHRISTIAN H.	
	<b>Examiner</b> Benjamin H. Layno	<b>Art Unit</b> 3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 6-11 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 6-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 6, the terms "a play card", "a pointer card" and "a blocker card" are indefinite. How are these cards different? There is no description in claim 6 defining how these cards are physically different from each other, and there are no steps defining how these cards are used differently from each other in order to be defined as a "play card", "pointer card" and "blocker card". A description of how these cards are physically different, and steps defining how these cards are used differently is required in claim 6.

In claim 7 the recitation "placing the card on the playing surface includes forming a closed polygon" is indefinite. Exactly how does a card form a closed polygon? There is no recitation interrelating the "one or more lines with a pattern", in claim 6, with the "forming a closed polygon".

In claim 7 the recitation "which a pointer marker can fit" is indefinite. What is the function of the point marker? Exactly how does a pointer marker fit in the closed polygon?

In claim 8, the term "a part of the formed polygon" lacks antecedent basis. There is no recitation of forming a polygon in claim 6.

In claim 8, the term "the puzzle" lacks antecedent basis. There is no recitation of a puzzle in claim 6.

In claim 9, the step of "when one of the players is first to run out of point markers" is indefinite and lacks antecedent basis because there is no recitation of "point markers" in claim 6, and there is no recitation that each player is assigned a plurality of point markers.

In claim 10 the recitation "when there are no more cards available to pick" is indefinite because there is no recitation in claims 6 and 9 that players must perform a step of picking a card from a plurality of cards.

In claim 11 the recitation "when there is no more playing surface on which to place cards" is indefinite because. What exactly does "no more playing surface" mean? According to the specification of present application, cards are placed on the playing surface, and the cards may be overlapped. There is always a playing surface to place the cards on.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claim 6 is rejected under 35 U.S.C. 102(b) as being anticipated by Kling Magnetic Card Game.

The Kling Magnetic Card Game in the 1992 U.S. Gaming Systems, Inc. catalog discloses a method of playing a strategy card game. Kling Magnetic Card Game comprises a playing surface formed from a magnetic element. The playing cards comprise a top layer and a bottom layer. The top layer having a design (Ace, King, Queen, Jack, etc.) with one or more lines with a pattern, and the bottom layer being magnetized. The playing cards having values of "2" – "10" may be called play cards, the playing cards having values of King, Queen and Jack may be called pointer cards, and the playing cards having values of Ace may be called blocker cards. To play a card game (e.g. poker) the selected playing cards are placed on magnetic playing surface.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barlow et al. in view of Watanabe.

The patent to Barlow et al. discloses a method of playing a strategy game comprising selecting a playing surface 11, and placing a card 19 from a set of cards onto the playing surface, Fig. 1. The set of playing cards is selected from a group

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consisting of a play card, a pointer card, and a blocker card, see the three cards 19 in Fig. 3. Each card has a top layer having a design superimposed by one or more lines with a pattern. To play Barlow's card game, the cards are placed on the playing surface to form a closed polygon, see abstract, lines 11-16 and col. 2, lines 22-25. The cards are placed parallel and perpendicular to each other.

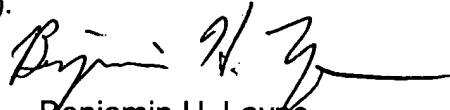
The patent to Watanabe discloses a method of playing a strategy game similar to Barlow's game wherein cards 3 are place on a playing surface 1 to form closed polygon shapes, see Figs. 8-10. Watanabe also teaches that the playing surface and cards have magnetic material, col. 5, lines 49-51. Furthermore, Watanabe teaches point markers 19, Fig. 5. In view of such teaching, it would have been obvious to incorporate magnetic material to Barlow's playing surface and cards in order to prevent the cards from sliding off the playing surface. Furthermore, it would have been obvious to incorporate point markers to Barlow's game in order to more efficiently keep track of players' scores.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571)272-4415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Benjamin H. Layno  
Primary Examiner  
Art Unit 3711

bhl